

## RULEMAKING NOTICE FORM

Notice Number \_\_\_\_\_

Rule Number Env-A 1400

1. Agency Name & Address:  <b>Dept. of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095</b>	2. RSA Authority: <u>RSA 125-I:6</u>
	3. Federal Authority: _____
	4. Type of Action:
	Adoption _____
	Amendment _____
	Repeal _____
	Readoption <u>x</u>
	Readoption w/amendment <u>x</u>

5. Short Title: REGULATED TOXIC AIR POLLUTANTS

6. (a) Summary of what the rule says and the effect of the rule on those regulated:

Env-A 1400 implements RSA 125-I, the Air Toxic Control Act, which provides a very detailed program for identifying and controlling regulated toxic air pollutants (RTAPs). The rule establishes a table of RTAPs, ambient air limits (AALs) for those pollutants, and a system for determining AALs so that they will be protective of human health. Facilities that emit RTAPs are required to demonstrate that those emissions comply with the AALs for those RTAPs. If they do not, the statute and rule require the owner or operator of the facility to obtain an air permit and implement either technical or operational controls to reduce the emissions below the AALs. The rule will expire on March 5, 2005, unless readopted prior to that date. The proposed rule readopts Env-A 1401 - 1413 with minor changes, and also updates the table of RTAPs in Env-A 1450.01 based on changes made to the list of chemical substances by the American Conference of Governmental Industrial Hygienists (ACGIH) in 2004. The following are proposed as new RTAPs:

Dimethyl sulfide; dodecyl mercaptan; hexahydrophthalic anhydride; hexahydrophthalic anhydride, cis-isomer; hexahydrophthalic anhydride, trans-isomer; natural rubber latex, as total proteins; and perfluorobutyl ethylene.

AALs for existing RTAPs were modified for eight substances, five based on changes made by ACGIH to the occupational exposure limits or ceiling values, and three based on changes made by EPA to the reference concentrations (RfC). In addition, four new substances were combined with two existing RTAPs by ACGIH to create the listing of "aliphatic hydrocarbon gases: Alkane C1 – C4". The new substances included in that listing are natural gas, propane, isobutane, and ethane. The existing RTAPs are butane and liquid petroleum gas.

6. (b) Brief description of the groups affected:

Facilities that emit one or more listed RTAPs in amounts that may exceed the AALs at or beyond the facility's boundaries are subject to this rule, with exemptions for mobile sources, normal agricultural operations, the application of pesticides, the combustion of coal, natural gas, untreated wood, or virgin petroleum products, gasoline dispensing or storage operations regulated pursuant to Env-A 1204 or Env-A 1205 (recently readopted and renumbered as Env-Wm 1404), exempt activities under the Title V permit program, and pneumatic transfer systems for collecting sander dust when such systems use a baghouse. It does not appear that any currently operating facilities will be adversely affected by the proposed changes to the AALs or the proposed addition of RTAPs to the table in Env-A 1450.01.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

<b>Provision of Proposed Rule</b>	<b>Specific State or Federal Statute the Rule is Intended to Implement</b>
Env-A 1401	RSA 125-I:1
Env-A 1402.01(a)	RSA 125-I:5, I
Env-A 1402.01(b) & (c)	RSA 125-I:3, III; RSA 125-I:6, II(e)
Env-A 1403.01(a), 1404.01	RSA 125-I:3, I; RSA 125-I:5, I
Env-A 1403.01(b) – (d)	RSA 125-I:5, I & V
Env-A 1404.02	RSA 125-I:5, IV
Env-A 1405.01 & 1405.02	RSA 125-I:5, V
Env-A 1405.03 – 1405.06	RSA 125-I:5, V; RSA 125-I:6, II(d)
Env-A 1406	RSA 125-I:2, XIV; RSA 125-I:6, II(a)
Env-A 1407 & 1408	RSA 125-I:6, II(b)
Env-A 1409 & 1410	RSA 125-I:4, III; RSA 125-I:6, II(b)
Env-A 1411.01 & 1411.02	RSA 125-I:6, II(c)
Env-A 1411.03	RSA 125-I:4, IV
Env-A 1412	RSA 125-I:4, V
Env-A 1413	42 U.S.C. §7412
Env-A 1450	RSA 125-I:4, I, II, III, IV and V

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name:	<b>Barbara Hoffman</b>	Title:	<b>SSMB Planning Manager</b>
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		TTY/TDD Access:	Relay NH 1-800-735-2964 or dial 711 (in NH)

The proposed rules can be viewed and downloaded at  
<http://www.des.state.nh.us/ard/prpsdrul.htm>

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **December 27, 2004 at 4:00 p.m.**

☒ Fax

☒ E-mail

☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **December 15, 2004, at 10:00 a.m.**

Place: **29 Hazen Drive, Concord, NH Room 110**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # 04-208 , dated Oct. 19, 2004.

See Attached.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The proposed changes to the Env-A 1450.01 RTAP list update the existing rule to reflect current scientific data. The only facilities owned or operated by political subdivisions that potentially may be affected by the proposed changes are sewage treatment plants and municipal solid waste landfills that emit hydrogen sulfide. The hydrogen sulfide 24-hour AAL will be reduced by 29%, thus becoming more stringent, but the annual AAL will be increased by 100%, thus becoming less stringent. Thus far, only one sewage treatment plant would have exceeded the existing hydrogen sulfide annual AAL, but it had previously installed controls to reduce odors, and such controls allowed it to meet the AAL as well. The plant does not exceed the existing 24-hour limit, nor will it exceed the proposed 24-hour limit under its present operating conditions. Thus, the Department does not believe at this time that these changes will cause any political subdivisions of the state to incur any new or additional costs. Accordingly, the proposed rules do not violate Part I, Article 28-a of the New Hampshire Constitution, because they do not assign any new, modified, or expanded programs or responsibilities to political subdivisions of the state.